

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
FARGO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**Criminal Action No. 2:15-CR-55
(BAILEY)**

DANIEL VIVAS CERON,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation (“R&R”) regarding defendant Ceron’s pleas of guilty [Doc. 107]. United States Magistrate Judge Alice R. Senechal filed her R&R on July 12, 2019. In that filing, the magistrate judge recommends that this Court accept defendant Ceron’s guilty pleas to Counts 1, 4, and 5 of the Superseding Indictment. For the reasons that follow, this Court **ADOPTS** the R&R.

On July 12, 2019, defendant Daniel Vivas Ceron appeared before United States Magistrate Judge Alice R. Senechal and moved for permission to enter a plea of GUILTY to Counts 1, 4, and 5 of the Superseding Indictment. After being placed under oath, defendant Ceron stated that he understood that the magistrate judge would prepare a written report and recommendation and that the decision as to whether the guilty pleas would be accepted would be made by the undersigned district judge. Previously, this Court referred the guilty plea to the magistrate judge for the purposes of administering the

allocution pursuant to Fed. R. Crim. P. 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Ceron's statements during the plea hearing and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found, among other things, that Ceron was competent to enter the pleas, that the pleas were freely and voluntarily given, that he was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. The magistrate judge entered a Report and Recommendation finding a factual basis for the plea and recommending that this Court accept Ceron's pleas of guilty to Counts One, Four, and Five of the Superseding Indictment.

The magistrate judge also directed the parties to file any written objections to the R&R by July 19, 2019. She further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. The parties did not file any objections to the R&R.

Upon careful review of the Report and Recommendation, it is the opinion of this Court that the magistrate judge's Report and Recommendation [**Doc. 107**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court **ADJUDGES** defendant Ceron **GUILTY** of the crimes charged in Counts 1, 4, and 5 of the Superseding Indictment.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), this Court **DEFERS** acceptance of the plea agreement until it has received and reviewed the presentence

report.

Pursuant to U.S.S.G. § 6A1 *et seq.*, the Court **ORDERS** as follows:

1. The Probation Officer shall undertake a presentence investigation of Ceron, and prepare a presentence report for the Court;

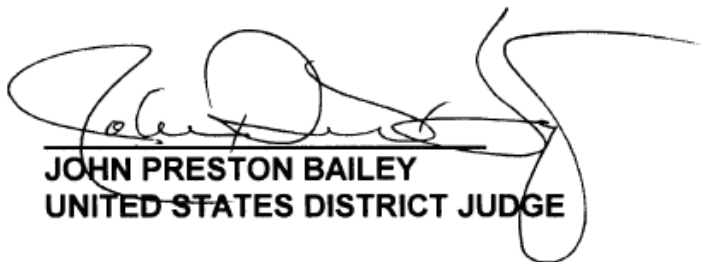
2. The Probation Officer and all parties shall comply with mandates of Fed. R. Crim. P. 32 and U.S.S.G. § 6A1.2 regarding disclosure, objection, departure motions, and sentencing statement requirements; and

3. This matter will be set for sentencing following receipt of the presentence report and addendum containing any unresolved objections and the probation officer's comments on them.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein, the United States Marshals Service, and the United States Probation Office.

DATED: July 24, 2019.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE